

§ 648.141

at a time, dependent on whether the SSC provides single or multiple year ABC recommendations.

(b) *Performance review.* The Black Sea Bass Monitoring Committee shall conduct a detailed review of fishery performance relative to the sector ACLs at least every 5 years.

(1) If one or both of the sector-specific ACLs is exceeded with a frequency greater than 25 percent (*i.e.*, more than once in 4 years or any 2 consecutive years), the Black Sea Bass Monitoring Committee will review fishery performance information and make recommendations to the MAFMC for changes in measures intended to ensure ACLs are not exceeded as frequently.

(2) The MAFMC may specify more frequent or more specific ACL performance review criteria as part of a stock rebuilding plan following a determination that the black sea bass stock has become overfished.

(3) Performance reviews shall not substitute for annual reviews that occur to ascertain if prior year ACLs have been exceeded but may be conducted in conjunction with such reviews.

§ 648.141 Closure.

EEZ closure. The Regional Administrator shall close the EEZ to fishing for black sea bass by commercial vessels issued a moratorium permit for the remainder of the calendar year by publishing notification in the FEDERAL REGISTER if he or she determines that the action or inaction of one or more states will cause the applicable target exploitation rate specified in § 648.140(a) to be exceeded. The Regional Administrator may reopen the EEZ if earlier action or inaction by a state has been remedied by that state without causing the applicable specified target exploitation rate to be exceeded.

EFFECTIVE DATE NOTE: At 76 FR 60636, Sept. 29, 2011, § 648.141 was revised, effective October 31, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 648.141 Black sea bass Annual Catch Target (ACT).

(a) The Black Sea Bass Monitoring Committee shall identify and review the relevant sources of management uncertainty to recommend ACTs for the commercial and recreational fishing sectors as part of the black sea bass specification process. The Black Sea Bass Monitoring Committee recommendations shall identify the specific sources of management uncertainty that were considered, technical approaches to mitigating these sources of uncertainty, and any additional relevant information considered in the ACT recommendation process.

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(1) *Sectors.* Commercial and recreational specific ACTs shall be less than or equal to the sector-specific ACLs. The Black Sea Bass Monitoring Committee shall recommend any reduction in catch necessary to address sector-specific management uncertainty, consistent with paragraph (a) of this section.

(2) *Periodicity.* ACTs may be established on an annual basis for up to 3 years at a time, dependent on whether the SSC provides single or multiple-year ABC recommendations.

(b) *Performance review.* The Black Sea Bass Monitoring Committee shall conduct a detailed review of fishery performance relative to ACTs in conjunction with any ACL performance review, as outlined in § 648.140(b)(1)–(3).

§ 648.142 Time restrictions.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(7), and fishermen subject to the possession limit specified in § 648.145(a), may possess black sea bass from May 22 through October 11 and November 1 through December 31, unless this time period is adjusted pursuant to the procedures in § 648.140.

[75 FR 39178, July 8, 2010]

EFFECTIVE DATE NOTE: At 76 FR 60636, Sept. 29, 2011, § 648.142 was revised, effective October 31, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 648.142 Black sea bass specifications.

(a) *Commercial quota, recreational landing limit, research set-aside, and other specification measures.* The Black Sea Bass Monitoring Committee will recommend to the Demersal Species Committee of the MAFMC and the ASMFC, through the specification process, for use in conjunction with the ACL and ACT, sector-specific research set-asides, estimates of the sector-related discards, a recreational harvest limit, a commercial quota, along with other measures, as needed, that are projected to ensure the sector-specific ACL for an upcoming year or years will not be exceeded. The following measures are to be consisted by the Black Sea Bass Monitoring Committee:

(1) Research quota set from a range of 0 to 3 percent of the maximum allowed.

(2) A commercial quota, allocated annually.

(3) A commercial possession limit for all moratorium vessels, with the provision that these quantities be the maximum allowed to be landed within a 24-hour period (calendar day).

(4) Commercial minimum fish size.

(5) Minimum mesh size in the codend or throughout the net and the catch threshold

that will require compliance with the minimum mesh requirement.

(6) Escape vent size.

(7) A recreational possession limit set after the reduction for research quota.

(8) Recreational minimum fish size.

(9) Recreational season.

(10) Restrictions on gear other than otter trawls and pots or traps.

(11) Total allowable landings on an annual basis for a period not to exceed 3 years.

(12) Changes, as appropriate, to the Northeast Region SBRM, including the CV-based performance standard, fishery stratification, and/or reports.

(13) Modification of the existing AM measures and ACT control rules utilized by the Black Sea Bass Monitoring Committee.

(b) *Specification fishing measures.* The Demersal Species Committee shall review the recommendations of the Black Sea Bass Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall make its recommendations to the MAFMC with respect to the measures necessary to assure that the ACLs are not exceeded. The MAFMC shall review these recommendations and, based on the recommendations and public comment, make recommendations to the Regional Administrator with respect to the measures necessary to assure that sector ACLs are not exceeded. Included in the recommendation will be supporting documents, as appropriate, concerning the environmental and economic impacts of the final rule. The Regional Administrator will review these recommendations and any recommendations of the ASMFC. After such review, the Regional Administrator will publish a proposed rule in the FEDERAL REGISTER to implement a commercial quota, a recreational harvest limit, and additional management measures for the commercial fishery. If the Regional Administrator determines that additional recreational measures are necessary to assure that the recreational sector ACL is not exceeded, he or she will publish a proposed rule in the FEDERAL REGISTER to implement additional management measures for the recreational fishery. After considering public comment, the Regional Administrator will publish a final rule in the FEDERAL REGISTER to implement the measures necessary to ensure that recreational sector ACL is not exceeded.

(c) *Distribution of annual commercial quota.* The black sea bass commercial quota will be allocated on a coastwide basis.

(d) *Research quota.* See § 648.21(g).

§ 648.143 Minimum sizes.

(a) The minimum size for black sea bass is 11 inches (27.94 cm) total length for all vessels issued a moratorium permit under § 648.4 (a)(7) that fish for,

possess, land or retain black sea bass in or from U.S. waters of the western Atlantic Ocean from 35° 15.3' N. Lat., the latitude of Cape Hatteras Light, North Carolina, northward to the U.S.-Canadian border. The minimum size may be adjusted for commercial vessels pursuant to the procedures in § 648.140.

(b) The minimum fish size for black sea bass is 12.5 inches (31.75 cm) TL for all vessels that do not qualify for a moratorium permit, and for party boats holding a moratorium permit, if fishing with passengers for hire or carrying more than five crew members, and for charter boats holding a moratorium permit, if fishing with more than three crew members.

(c) The minimum size in this section applies to the whole fish or any part of a fish found in possession (e.g., fillets), except that party or charter vessels possessing valid state permits authorizing filleting at sea may possess fillets smaller than the size specified if skin remains on the fillet and all other state requirements are met.

[61 FR 58467, Nov. 15, 1996, as amended at 63 FR 27868, May 21, 1998; 66 FR 39292, July 30, 2001; 66 FR 66357, Dec. 26, 2001; 67 FR 50373, Aug. 2, 2002; 68 FR 44236, July 28, 2003; 74 FR 30011, June 24, 2009]

EFFECTIVE DATE NOTE: At 76 FR 60636, Sept. 29, 2011, § 648.143 was revised, effective October 31, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 648.143 Black sea bass Accountability Measures.

(a) *Commercial sector fishery closure.* The Regional Administrator will monitor the harvest of commercial quota based on dealer reports, state data, and other available information. All black sea bass landed for sale in the states from North Carolina through Maine by a vessel with a moratorium permit issued under § 648.4(a)(7) shall be applied against the commercial annual coastwide quota, regardless of where the black sea bass were harvested. All black sea bass harvested north of 35°15.3' N. lat., and landed for sale in the states from North Carolina through Maine by any vessel without a moratorium permit and fishing exclusively in state waters, will be counted against the quota by the state in which it is landed, pursuant to the FMP for the black sea bass fishery adopted by the ASMFC. The Regional Administrator will determine the date on which the annual coastwide quota will have been harvested; beginning on that date and through the end of the calendar year, the